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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1968

No. 353

ELIJAH WHITE RATCLIFF,
Petitioner,

vs.

E. IVAN BRUCE AND TRUMAN BLOCKER, JR.,
Respondents.

PETITION FOR REHEARING OF PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF TEXAS

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To the Honorable Earl C. Warren, Chief Justice of the Supreme Court of the United States, and the Associate Justices of the Supreme Court of the United States:

Petitioner moves the Court to rehear his Petition for Writ of Certiorari filed in the Supreme Court of the United States on the 29th day of July, A.D. 1968, numbered 353

for the October Term, 1968, which Petition for Writ of Certiorari was denied on the 14th day of October, A.D. 1968, and in support of this petition would respectfully show the Court as follows:

I

Petitioner's case is primarily that Respondents have totally disregarded the enunciations of the Fifth, Thirteenth and Fourteenth Amendments to the Constitution of the United States of America by requiring him to remain within the definite limitations of the University of Texas Medical Branch at Galveston, Texas, while cases he had pending awaiting appellate review were being lost for failure to comply with Rules 353, 354, 355, 356 and 386 of the Texas Rules of Civil Procedure (See Appendix for Amendment XIII). The failure was a condition Petitioner was helpless to alleviate, and ulterior motives that influenced Petitioner's father and Respondents to bring about the confinement of Petitioner should not be ignored and accepted as insignificant or nonexistent (See Volume I, Statement of Facts, Record Instrument XII, p. 47). *A. Harris & Company* v. *Caldwell, et al.*, 276 SW 298 (1925). Whereas the law in Texas makes compliance with the aforementioned rules prerequisite to a completed appeal, Petitioner concludes that summary judgment in his favor would not have deprived Respondents of any legal rights as long as such summary judgment limited its effect to the issue of false imprisonment. *Wyche* v. *Works*, 373 SW2d 558 (1863).

II

Secondly, Petitioner emphasizes that after the District Court elected to try all issues of the case in a plenary proceeding, its ultimate judgment was a product of preju-

dice because of the erroneous admission of prejudicial and irrelevant evidence during substantially all direct and cross-examination by the attorney who represented Respondents during the trial as well as by the Court's refusal to admit certain letters into evidence offered by Petitioner which were, as an impeachment devise, an essential link in the establishment of negligence on the part of Respondents. The same is true of the Briefs of another Court proceeding offered into evidence by Petitioner. *Hussman* v. *Leavell & Sherman*, 20 SW2d 829 (1929).

III

Petitioner also complains of the refusal of the trial Court to permit the jury to consider special issues under Rules 67 and 90 of the Texas Rules of Civil Procedure covering specific negligence, intent and damages. *Stalnaker* v. *Howard*, 230 SW2d 563 (1950).

IV

Finally, Petitioner submits that the case as decided by the Texas judiciary should be reversed because of the rule established within the State by a decision which preceded the determination of Petitioner's case, and which is reasonable under the Federal Constitution, that a party deprived of a complete record material to his appeal without fault or negligence of himself or his counsel is entitled to reversal of the judgment for which he appealed. *Koonce* v. *City of Mesquite*, 382 SW2d 309 (1964).

Premises considered, Petitioner respectfully moves the Court to rehear his Petition for Writ of Certiorari and upon final hearing thereof to reverse the decision of the Supreme Court of Texas in this cause of action denying Petitioner's Application for Writ of Error and petitions

further that the cause be remanded to the Supreme Court of Texas with instructions to order the District Court to adjudicate the remaining issues not resolved by this Court.

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ELIJAH W. RATCLIFF,
Attorney At Law,
P. O. Box 862,
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Ph. 713 FA 7-4948,
Attorney for Petitioner.

CERTIFICATE OF COUNSEL

I, Elijah W. Ratcliff, Attorney for Petitioner in the foregoing Petition for Rehearing of Petition for Writ of Certiorari, do solemnly declare and certify under the penalties of perjury that such Petition for Rehearing of Petition for Writ of Certiorari is presented in good faith and not for any purposes of delay, and the Petition is restricted to substantial grounds supporting the granting of the Petition for Writ of Certiorari which were not previously presented to the Court as reasons for granting the writ or as relief sought thereby, and that I have mailed a copy of this Petition this ..... day of ....., A.D. 1968, by first class United States Mail to the Attorneys of Record for Respondents at 200 University Boulevard in Galveston, Texas and Capitol Station in Austin, Texas.

.....

Attorney for Petitioner

APPENDIX

Amendments to the Constitution of the United States,

Article XIII

1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

2. Congress shall have authority to enforce this article by appropriate legislation.